

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD WILLIAMS,

Plaintiff,

v.

ONE WEST BANK FSB, et. al.

Defendants.

CASE NO. C13-1745 MJP

ORDER DISMISSING MATTER
WITHOUT PREJUDICE

THIS MATTER comes before the Court on Plaintiffs Richard Williams and Charlotte Williams' ("Plaintiffs") Motion to Dismiss their case. (Dkt. No. 47.) Defendants have not filed an opposition to Plaintiffs' motion. Having reviewed the motion and the remaining record, the Court GRANTS the motion and DISMISSES this matter without prejudice.

Federal Rule of Civil Procedure 41(a)(2) permits a plaintiff to seek a voluntary dismissal by court order. Fed. R. Civ. P. 41(a)(2). Because Plaintiffs ask the Court to dismiss their case under Rule 41 (Dkt. No. 47 at 1), the Court construes Plaintiffs' request as a motion under Rule 41(a)(2). See Balistreri v. Pacifica Police Dep't, 901 F.2d. 696, 699 (9th Cir. 1990).

1 Dismissal is normally granted when there is no evidence defendant will suffer legal
2 prejudice. Smith v. Lenches, 263 F.3d 972, 975 (9th Cir. 2001). “Legal prejudice means
3 prejudice to some legal interest, some legal claim, some legal argument.” Id. at 976 (citations
4 omitted). Here, because Defendants do not have any pending counterclaims and because
5 Defendants have not filed an opposition to Plaintiffs’ Motion to Dismiss, the Court finds there
6 would be no legal prejudice. Rule 41(a)(2) provides that “an action may be dismissed at the
7 plaintiff’s request only by court order, on terms that the court considers proper.” Fed. R. Civ. P.
8 41(a)(2). The Court finds that a dismissal without prejudice is proper in this case.

9 Plaintiffs’ Motion to Dismiss their case, (Dkt. No. 47), is GRANTED and the case is
10 DISMISSED without prejudice. Defendants’ pending Motion for Summary Judgment, (Dkt. No.
11 40), is DENIED as moot.

12 The clerk is ordered to provide copies of this order to all counsel.

13 Dated this 19th day of December, 2014.

14 

15 Marsha J. Pechman
16 United States District Judge